

Amy P. Lally (SBN 198555)
alally@sidley.com
Ellyce R. Cooper (SBN 204453)
ecooper@sidley.com
SIDLEY AUSTIN LLP
1999 Avenue of the Stars
17th Floor
Los Angeles, CA 90067
Telephone: +1 310 595 9500
Facsimile: +1 310 595 9501

Mark Rosenbaum (SBN 59940)
mrosenbaum@publiccounsel.org
Amanda Savage (SBN 325996)
asavage@publiccounsel.org
PUBLIC COUNSEL
610 S. Ardmore Avenue
Los Angeles, CA 90005
Telephone: +1 213 385-2977
Facsimile: +1 213 385-9089

Attorneys for Plaintiffs
Additional Counsel on next page

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Ms. J.P., et al.,

Plaintiffs,

v.

Merrick B. Garland,

U.S. Attorney General, et al.,

Defendants.

Case No. 2:18-cv-6081-JAK-SK

**DECLARATION OF MARK
ROSENBAUM IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES AND COSTS**

Date: Mar. 25, 2024
Time: 8:30 a.m.
Ctrm: 10B
Location: First Street Courthouse
350 W. First Street
Los Angeles, CA 90012
Judge: Hon. John A. Kronstadt

1 Carter G. Phillips*
cphillips@sidley.com
2 Jennifer J. Clark*
jennifer.clark@sidley.com
3 SIDLEY AUSTIN LLP
1501 K Street, N.W.
4 Washington, D.C. 20005
Telephone: +1 202 736 8000
5 Facsimile: +1 202 736 8711

6 Timothy G. Payne*
tpayne@sidley.com
7 SIDLEY AUSTIN LLP
Daniel C. Craig *
8 dcraig@sidley.com
SIDLEY AUSTIN LLP
9 One South Dearborn Street
Chicago, IL 60603
10 Telephone: +1 312 853 7000
Facsimile: +1 312 853 7036

11 Sean A. Commons (SBN 217603)
12 scommons@sidley.com
SIDLEY AUSTIN LLP
13 555 West Fifth Street
Los Angeles, CA 90013
14 Telephone: +1 213 896 6000
Facsimile: +1 213 896 6600

15 *Admitted pro hac vice

16 ** Institution listed for identification
17 purposes only

Mark E. Haddad (SBN 205945)
markhadd@usc.edu
Part-time Lecturer in Law
USC Gould School of Law**
University of Southern California
699 Exposition Boulevard
Los Angeles, CA 90089
Telephone: +1 213 675-5957

Luis Cortes Romero (SBN 310852)
lcortes@ia-lc.com
Alma L. David (SBN 257676)
adavid@ia-lc.com
Immigrant Advocacy &
Litigation Center, PLLC
19309 68th Avenue South, Suite R-102
Kent, WA 98032
Telephone: +1 253 872-4730
Facsimile: +1 253 237-1591

1 I, Mark Rosenbaum, declare as follows:

2 1. I am an attorney, duly licensed to practice law in the State of California,
3 and am admitted before this Court. I am a Senior Special Counsel with Public Counsel
4 (“Public Counsel”) and lead counsel for Plaintiffs in this action. I submit this
5 declaration in support of Plaintiffs’ Motion for Attorneys’ Fees and Costs. I have
6 personal knowledge of the matters set forth in this declaration and, if called upon, I
7 could and would competently testify thereto.

8 **Special Expertise and Experience Was Needed In The Litigation**

9 2. I serve as Public Counsel’s Senior Special Counsel for Strategic
10 Litigation. Public Counsel is a nonprofit public interest law firm dedicated to
11 advancing civil rights and has extensive experience in complex litigation and
12 immigration matters. Additional information regarding Public Counsel and its
13 professionals may be found on Public Counsel’s website, located at publiccounsel.org.
14 I joined Public Counsel after over four decades with the American Civil Liberties
15 Union (ACLU) of Southern California, most recently as Chief Counsel. I have argued
16 four times before the United States Supreme Court, more than 25 before the Ninth and
17 Sixth Circuit federal Courts of Appeal, three before the California Supreme Court and
18 before the United States Court of Military Appeals.

19 3. I believe that counsel with specialized expertise unavailable at the
20 inflation-adjusted EAJA rate was essential to the successful prosecution of plaintiffs’
21 motion to enforce the settlement in *Ms. J.P. et al. v. Garland, et al.*

22 4. I have been principal counsel in numerous complex civil rights class
23 action lawsuits. I have litigated many major immigration cases in addition to the *Ms.*
24 *J.P. et al.* suit: *Orantes-Hernandez suit*; e.g., *Gregorio T. v. Wilson*, 131 F.3d 1297
25 (9th Cir. 1997) (striking down Proposition 187; awarded fees at market rates under
26 EAJA); *Perez-Funez v. I.N.S.*, 619 F.Supp. 656 (C.D. Cal. 1985) (rights of children
27 arrested by INS to notification of rights and access to counsel); *Martinez v. Nygaard*,
28 831 F.2d 822 (9th Cir. 1987) (4th Amendments rights in INS factory raids); *Ramon-*

1 *Sepulveda v. I.N.S.*, 863 F .2d 1458 (9th Cir. 1988) (due process rights in immigration
2 hearings). Attached hereto as **Exhibit B** is a copy of my resume which describes my
3 qualifications.

4 5. During this litigation, I served as principal counsel and assisted in the
5 development and framing of our theories of the case. I assisted in the identification
6 and selection of plaintiffs, which required considerable knowledge and understanding
7 of the methods and procedures utilized by immigration agents to process detainees.
8 Expertise in this area also served us well in the development of our discovery
9 objectives, and of the specific requests that went out first. It also served us in
10 analyzing and countering arguments by defendants in our opposition to the
11 defendants' motion to dismiss.

12 6. I also relied on my expertise and particularized knowledge of complex
13 civil rights class action lawsuits and immigration law in preparing for and engaging in
14 settlement negotiations that resulted in a successful settlement for plaintiffs.

15 7. I spent 8.8 hours drafting the complaint, 3.4 hours on discovery, 5.4
16 hours on mediation, 0.5 hours on class certification, 11.9 hours on plaintiffs'
17 opposition to defendants' motion to dismiss, and 63.7 hours on settlement
18 negotiations. In total, I spend 93.7 hours on this matter, excluding time spend
19 preparing for and engaging in settlement negotiations related to the present motion for
20 fees.

21 8. I am further familiar with the expertise of my fellow members of the
22 immigration bar, legal services lawyers, and the private bar from which Public
23 Counsel recruits pro bono attorneys. I'm generally familiar with the billing practices
24 of immigration practitioners and general members of the private bar. I do not believe
25 qualified counsel of my level of skill and expertise could have been found to prosecute
26 plaintiffs' claims for less than \$1,170 per hour. I do not believe that qualified counsel
27 of Talia Inlender's skill and expertise could have been found to prosecute plaintiffs'
28 claims for less that \$795 per hour.

Recovery of Other Legal Fees at the EAJA Rate

9. Over the course of several years, many Public Counsel attorneys, paralegals, and law clerks have dedicated extensive time to this case. Other than my time and the time of Talia Inlender, Plaintiffs seek recovery for all other legal fees at the EAJA statutory rate adjusted for inflation, which is substantially below the market rates for every lawyer who worked on this matter.

10. Public Counsel attorneys, paralegals, and volunteers keep time contemporaneously with their tasks on this matter. The records of our time are entered into Public Counsel's database. The record of the time spent, tasks, and activities entered into Public Counsel's database for which Plaintiffs seek recovery is reflected in **Exhibit A**.

11. As itemized and described in Exhibit A, Plaintiffs seek a total of \$233,732.52 in legal fees incurred at the applicable EAJA rate by Public Counsel. Plaintiffs seek an additional \$136,261.50 in legal fees incurred at the market rate based on the specialized knowledge and skill that was essential to the successful prosecution of the present matter. Plaintiffs seek a total of \$369,994.02 in legal fees.

12. Based on my experience and expertise in this case, and based on my broader litigation experience, I believe that Public Counsel time for which Plaintiffs seek compensation was necessary and essential to litigating this important and high-profile case as thoroughly and successfully as Plaintiffs' counsel did. I have carefully reviewed the time for which Plaintiffs seek reimbursement and have determined they were necessarily incurred.

13. I have met and am familiar with the individual plaintiffs in this lawsuit. They are private individuals whose net worth has never exceeded \$2,000,000.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

1 Executed on this 16th day of February 2024, in Los Angeles, California.
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4 /s/ Mark Rosenbaum

5 Mark Rosenbaum
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